

death, and in case no such power should be exercised, that then the property should be delivered over by the trustee to the heirs at law, or the legal representatives of the deceased, free altogether from the trust which then was to terminate. It can scarcely be supposed that the testator designed to confide to either of these *cestui que trusts*, the uncontrolled power to dispose, absolutely, of the estate, when, as we have seen, he revoked by his codicil the authority which, by his will, he had given to the trustee to sell with the concurrence and approbation of the parties interested. Why should he take from the trustee and *cestui que trusts* combined, the power to do that which the latter, without the co-operation of the former might do? It surely was a very idle precaution on the part of this testator to declare that the trustee and *cestui que trusts* together should not sell the estate if he had so framed his will as to enable the *cestui que trusts* to do so by themselves. Looking at the whole will, I am persuaded I should be totally disregarding the intention of the testator if I should decide that Henry Robinson had the power to dispose of this property absolutely in his lifetime by deed, and as the intention of the testator, when not repugnant to the rules of law, shall prevail, I do not feel myself at liberty to make such decision. In the case of *Dashiell vs. Dashiell*, 2 H. & G., 127, the Court of Appeals say, "The position is undeniable, that in the judicial interpretation of wills, the intention of the testator, to be gathered from the entire instrument, shall prevail, unless it violates some established principle of law." And the same principle had been repeatedly asserted before and has been since. No principle of law is, as I think, violated by giving effect to the intention of the testator in this case, and by declaring in conformity with that intention, that Henry Robinson had no power to make, in his lifetime, an absolute disposition of this property.

It does not appear to me that the state of the case is at all altered, or the rights of the parties changed by the sale which has been made under the decree in this case. The property was decreed to be sold, because, as alleged by the bill, and established by the proof, it was for the interest and advantage of all parties interested, that it should be sold and the proceeds di-